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WORKFARE IN THE FOOD STAMP PROGRAM

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FOREWORD

In August of 1982, Congress passed legislation to provide up to 100 percent Federal reimbursement for eligible administrative expenses to jurisdictions operating a food stamp work-for-benefit program—popularly known as "workfare". Reforms were also adopted to simplify and improve the administration of the food stamp workfare program.

In essence, workfare allows jurisdictions to require most able-bodied recipients to work in public service jobs in exchange for their food stamps.

The changes made this year follow other workfare legislation, enacted in 1981, that permits any State or political subdivision within a State to establish and operate a workfare program for able-bodied food stamp recipients.

Because of the interest of many jurisdiction in establishing such a program, this analysis is provided for background information and to outline the broad guidelines that govern the operation of the food stamp workfare program. It should be useful as a preliminary guide to State and local officials who might want to implement such a program in their areas.

Following are several objectives that a successful workfare program is intended to achieve:

1. To return something of value to the community for its support of recipients;
2. To introduce the individual to the work environment, and to encourage that individual to find regular employment; and
3. To act as a deterrent to program participation for those who could work, but choose not to work.

I believe that the workfare structure, which has been adopted for food stamps, is an effective and sensitive approach to these objectives. I urge State and local officials to consider implementing workfare in their jurisdictions. No doubt, once local and State officials have experience with this new program, they may want to suggest helpful modifications, which the Committee would be receptive to in the future. Indeed, the experience and recommendations of the workfare pilot projects have been instrumental in formulating the existing structure.

This analysis contains information on proper officials to be contacted within the Food and Nutrition Service at the Department of Agriculture. Let me also extend my availability and that of the staff of the Committee on Agriculture, Nutrition, and Forestry to be of assistance to any jurisdiction seeking to participate in the workfare program. Inquiries should be directed to the Senate Committee on Agriculture, Nutrition, and Forestry, 322 Russell Senate Office Building, Washington, D.C. 20510, (202) 224–2035.

JESSE HELMS, *Chairman.*

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Workfare Background

The Food Stamp Act of 1977 (Public Law 95–113) established the food stamp workfare concept to be tested, upon request by local jurisdictions, in 14 pilot projects in 7 urban and 7 rural areas.

The concept of requiring work for benefits has been used increasingly in a number of States and political subdivisions in a variety of income assistance programs.

In most circumstances, able-bodied recipients are required to attend workfare interviews at which time they are assigned to public service jobs. Some locations consider recipients' occupational or educational background; others do not, depending on the local jurisdiction's preference. Recipients who fail to show up for the workfare assignment or do not complete the assignment are suspended from eligibility for benefits for varying penalty periods.

A number of the jurisdictions participating in the food stamp workfare pilot projects also use workfare in their local public assistance programs.

Workfare—under the name community work experience program (CWEP)—has also been made a State option component of the aid to families with dependent children program since the passage of the Omnibus Budget Reconciliation Act of 1981 (Public Law 97–35). Individual jurisdictions within the State may operate CWEP, with State approval, or CWEP may be established statewide at each State's discretion.

This analysis will describe the operations of the initial projects, as well as identify changes which have been made through the 1981 and 1982 legislation. The 1981 changes were made in the Food Stamp and Commodity Distribution Amendments of 1981 which was included as title XIII of the Agriculture and Food Act of 1981, Public Law 97–98. The 1982 changes were in the Food Stamp Act Amendments of 1982 which was included as part of title I of the Omnibus Budget Reconciliation Act of 1982, Public Law 97–253. A copy of the current law, section 20 of the Food Stamp Act of 1977, as amended, is included as appendix I of this analysis.

State and local governments may begin requiring food stamp workfare on November 8, 1982, provided that the Department of Agriculture has approved the workfare plan. Appendix II contains the text of the final regulations published October 8, 1982, in the Federal Register.

Officials interested in establishing a workfare program in their area should contact the regional office of the Food and Nutrition Service for complete information on making application to participate. Appendix III contains the addresses for the seven Food and Nutrition Service regional offices.

Food Stamp Workfare Pilot Projects

Food stamp workfare pilot projects actually began operation in July of 1979, and reached the maximum of 14 in 1981 during the second phase of the demonstration.

The following chart, furnished by the General Accounting Office, lists the locations that participated as workfare pilot projects during 1981 and 1982, their initial starting dates, and the number of food stamp households within those jurisdictions:

SCHEDULE OF WORKFARE DEMONSTRATION PROJECTS IN EXTENSION PHASE (1981)

Location	Type	Date started	Food stamp households [1]
1. Yuma, Ariz. (more than city, but not entire county)	Rural	Dec. 15, 1980	2,563
2. Lonoke County, Ark. (Lonoke) [2]	Rural	Jan. 7, 1981	1,341
3. Sebastian County, Ark.	Urban/rural	Jan. 7, 1981	2,120
Crawford County, Ark. (Fort Smith/Van Buren)	Urban/rural	Jan. 7, 1981	1,360
4. San Diego, County, Calif. (San Diego) [2]	Urban	Jan. 9, 1981 [3]	46,084
5. Pinellas County, Fla. (St. Petersburg)	Urban	Jan. 15, 1981	14,230
6. Vanderburgh County, Ind. (Evansville)	Urban	Jan. 12, 1981	4,803
7. Montgomery County, Md. (Rockville)	Urban	Jan. 29, 1981	5,144
8. Grand Rapids, Mich. (city only, not Kent County)	Urban	Jan. 12, 1981	[4] 11,131
9. Green County, Mo. (Springfield) [2]	Urban	Jan. 1, 1981	5,246
10. Nashua, N.H. (Hillsborough County) [2]	Urban	Jan. 7, 1981	([5])
11. Berkeley County, S.C. (Moncks Corner) [2]	Rural	Jan. 1, 1980	2,971
12. Greenville County, S.C. (Greenville) [2]	Urban	Dec. 29, 1980	7,928
13. Utah County, Utah (Provo) [2]	Rural	Jan. 12, 1981	([5])
14. Tazewell County, Va. (Tazewell) [2]	Rural	Dec. 1, 1980	1,659

[1] Households participating in food stamp program as of August 1980.
[2] Pilot projects still in operation in September 1982.
[3] Continuation from initial phase for entire county; part of the county began operations in July 1979.
[4] This figure is for Kent County in which Grand Rapids is located. No figure is available for the city of Grand Rapids.
[5] Not available.

Numerous recommendations made by workfare pilot project jurisdictions and the General Accounting Office during the 2-year demonstration period influenced changes adopted by Congress when the program was made a national option in 1981 and when other legislative changes were made in 1982. Indeed, some pilot projects which participated during the first year did not continue through the second year because of frustrations over certain legislative limitations, many of which the 1981 Act helped correct.

Recipients Subject to Workfare

One area of concern noted by the GAO and participating jurisdictions during the demonstration was that too many individuals were exempt (by statute) from participation. In the pilot projects, 10 categories of recipients were exempt from participation. The first nine of these are the same categories for which exemptions were also provided for work registration during the pilot project period.

CATEGORIES OF FOOD STAMP RECIPIENTS EXEMPT FROM WORKFARE PARTICIPATION DURING THE PILOT PROJECT

1. A person younger than 18 years of age or a person 60 years of age or older.
2. A person physically or mentally unfit for employment.
3. A household member subject to and participating in the aid to families with dependent children work incentive program (AFDC–WIN).
4. A parent or other household member who is responsible for the care of a dependent child under age 12 or an incapacitated person.
5. A parent or other caretaker of a child under age 18 in a household where another able-bodied parent is registered for work or is exempt as a result of employment.
6. A person receiving unemployment compensation.
7. A regular participant in a drug addiction or alcoholic treatment and rehabilitation program.
8. A person employed or self-employed and working a minimum of 30 hours weekly or receiving weekly earnings at least equal to the Federal minimum wage multiplied by 30 hours.
9. A student enrolled at least half time in any recognized school, training program, or institution of higher education.
10. Households whose total household monthly earned income is greater than the household monthly food stamp allotment.

However, accepting several of the GAO's recommendations, Congress eliminated several exemptions. The 1981 legislation changed the exemption for AFDC–WIN *registrants* to exempt only actual participants who were working at least 20 hours per week. The 1982 legislation further reformed this provision by allowing States the option of exempting *participants* working or involved in training at least 20 hours per week. AFDC–WIN participants engaged in work or training less than 20 hours per week or AFDC–WIN registrants who are not assigned to work or training are not exempt from food stamp workfare obligations.

The 1981 Act also eliminated the exemption for those food stamp recipients who are receiving unemployment insurance benefits. As noted by the GAO:

> **Recipients of unemployment insurance benefits are required to search for work but they should be able to do so and still participate in the food stamp workfare program which, in most cases, requires less than 5 days of work a month.**

Another category of individuals who were exempt from pilot project workfare obligations were those whose earned income was greater than their food stamp benefits. Again, the GAO noted the over-broadness of the exemption:

> **Full-time workers merit exemption because an inherent objective of the workfare program is to encourage individuals to find full-time employment. However, depending on their hours of work, part-time workers could have time available to participate in workfare.**

The 1981 legislation eliminated the above exemption, but did retain the exemption for those working 30 hours per week or earning 30 times the minimum wage (representing "full-time" employment). The following categories of recipients remain exempt from workfare obligations:

CATEGORIES OF FOOD STAMP RECIPIENTS EXEMPT FROM WORKFARE PARTICIPATION (1982)

1. A person younger than 18 years of age or a person 60 years of age or older.
2. A person physically or mentally unfit for employment.
3. A parent or other household member who is responsible for the care of a dependent child under age 6 or an incapacitated person.[1]
4. A parent or other caretaker of a dependent child in a household where another able-bodied parent is participating in workfare or is employed full-time.
5. A regular participant in a drug addiction or alcoholic treatment and rehabilitation program.
6. A person employed or self-employed and working a minimum of 30 hours weekly or receiving earnings at least equal to the Federal minimum wage multiplied by 30 hours.
7. A student enrolled at least half time in any recognized school, training program, or institution of higher education.[2]
8. At the option of the operating agency, a household member who is subject to and currently, actively, and satisfactorily participating in a work training program under AFDC, the work incentive program (WIN), for at least 20 hour per week.

It should be noted that the changes made in exemptions for workfare participation should increase the number of recipients who would be subject to participation in food stamp workfare. During the pilot project phase, the percentage of households eligible to participate was approximately 10 percent. It is estimated that approximately 25–30 percent of all food stamp households are now eligible to participate in food stamp workfare.

Hours of Workfare

Under the pilot projects the maximum number of hours per week that an individual could be required to work was 40. However, during the second year of the demonstration, the usual number of hours worked was approximately 32.4 hours per *month*, or about 4 days per month—less than 2 days per week.

The 1981 legislation required a two-tier test for the maximum number of hours that could be required of a workfare participant. It established 20 hours per week as the maximum workfare assignments that could be required, with the further stipulation that an individual who was participating in other forms of compensated work could be required to work no more than 30 hours per week of combined food stamp workfare and other employment.

[1] Based on 1981 action lowering from 12 to 6 the age of a youngest child which exempts a parent from work registration.

[2] While 1982 legislation has further limited the number of students who may participate in the food stamp program, those that remain continue to be exempt from workfare obligations.

The 1982 legislation increases the maximum weekly workfare assignment to 30 hours per week while retaining the 30-hour maximum when combined with other employment. The provision thereby eliminates an inequity which gave more lenient treatment to able-bodied recipients who had no employment than to those who had other employment.

Daily Operation of Food Stamp Workfare

Food stamp recipients subject to workfare typifically are identified by the food stamp office and referred to a workfare division which schedules them for an interview. At the interview, the individuals' skills, abilities, interests, and work experiences may be assessed, and the recipients are scheduled for work with either State and local governmental agencies or with private nonprofit organizations.

The household's monthly food stamp allotment is divided by the higher of the applicable Federal or State minimum wage to determine the number of workfare hours required to "earn" the monthly food stamp allotment. (As noted earlier, the requirement may not exceed 30 hours per week.) The work is performed in exchange for the monthly food stamp allotment.

Referred individuals who fail to report for the workfare interview, fail to report for work, or fail to complete the required hours of work are referred back to the food stamp office for a determination of cause, and where appropriate, imposition of a sanction. "Good cause" reasons for failure may be established for such circumstances as lack of transportation, illness, household emergency, or conflict with other employment, training, or job search. If an individual establishes cause for failure to comply with workfare obligations, he may be designated exempt from workfare or the interview or work assignment will be rescheduled so as not to conflict with the priority activities which preclude the recipients initial compliance.

Sanctions

Under the pilot projects, workfare referrals who refused to (1) be interviewed, (2) be assigned to a workfare job, or (3) carry out their work obligation in a public service job were sanctioned by being denied food stamp program benefits for 1 month. Other members of the household continued to receive benefits.

Several pilot project jurisdictions and the GAO indicated that this penalty for noncompliance was too lenient to serve as a sufficient deterrent, and urged that it be strengthened. The 1981 Act did strengthen the sanction by extending it to 2 months and by making the entire household, rather than just the able-bodied individual, ineligible. The 1981 Act stipulates that the household may be reinstated if *any* able-bodied individual in the household completes the workfare obligation.

Job Sites

The agency operating food stamp workfare is responsible for establishing the appropriate number of job sites and for making job site assignments for recipients. There is no penalty for a recipient who

fails to comply with a workfare obligation if the jurisdiction did not assign him to a job.

The pilot projects developed a wide variety of jobs which they arranged for participants.

The following excerpt from the 1981 Annual Report on the Workfare Demonstration Project from San Diego County, the largest pilot project, outlines how that particular project chose to match abilities with available workfare jobs.

Worksites were developed quickly and effectively within the first few weeks of the project. Worksite availability was not a problem. Workfare staff developed a wide selection of worksite job placements for participants. Jobs were developed during the year to accommodate participants with special skills. For example, participants with teaching and/or counseling skills were placed at the Hillcrest Receiving Home School; participants with painting skills were assigned to the General Services paint shop; an economist was assigned to a Board office; a librarian was assigned to develop and update the Department of Human Services library. Another participant updated the library for the Department of General Services.

Participants performed a variety of public services including clearing brush and landscaping at Heritage Park, monitoring the parking lot at the Kearny Mesa Welfare Office, graphic arts with the Public Information Office, and a voter registration survey for the Registrar of Voters. Two participants painted and assembled the Department of Public Welfare's booth for the Southern California Exposition. Worksites were primarily in the San Diego County Departments.

Decisions about whether to consider a recipient's educational or occupational background are at the discretion of the State or local jurisdiction operating a workfare program. However, pilot projects that did attempt to tailor the assignment based on the individual's background generally reported greater success with the program, including improved receptivity by workfare participants.

Additionally, the General Accounting Office in its 1982 report surveying four workfare projects noted the following broad job categories to which recipients were assigned:

JOB CATEGORIES AT THE 4 WORKFARE DEMONSTRATION PROJECTS IN GAO REVIEW

	Projects			
	Vanderburgh County, Ind.	Greenville County, S.C.	San Diego County, Calif.	Pinellas County, Fla.
Job category:				
Artist	X		X	
Clerical	X	X	X	X
Child care	X	X	X	
Custodial	X	X	X	X
Food service		X	X	X
Gardening	X	X	X	X
Housekeeping		X	X	
Laborer	X	X	X	X
Lifeguard			X	
Maintenance	X	X	X	X
Nurses aide			X	
Public relations			X	
Recreation		X	X	X
Security			X	
Social services aide	X	X	X	
Teachers aide			X	X
Technical			X	
Total	8	10	17	8

Placement Limitations

It should be noted that workfare participants may not be used to replace existing employees, nor may they be assigned to workfare obligations in private industry. Workfare participants are also entitled to the same working conditions and benefits as are afforded regular employees performing comparable work at the job site.

Job Search

During the pilot projects, participating jurisdictions were required to give new workfare referrals a 30-day job search period before they could be assigned to workfare jobs. As a result, new referrals automatically avoided workfare participation for at least 30 days. If they were certified for food stamp benefits for only 1 month, they would not be affected by workfare. Even under a 2-month certification, food stamp benefits for both months probably would have been received by some households before the workfare interview and assignment process would start and before "failure to cooperate" could be investigated to determine whether benefits should be suspended.

The General Accounting Office recommended in 1981 that the mandatory 30-day job search be eliminated, and in the 1981 Act Congress concurred with this recommendation by making the 30-day job search period (or any lesser period) optional at the discretion of the agency operating the workfare program.

The General Accounting Office noted:

> We believe that the effectiveness of the food stamp workfare program could be improved significantly by requiring those eligible for workfare to report to the workfare office for interview and work assignment as an integral part of the certification process for food stamp benefits. Under these circumstances, any failure to cooperate in workfare would immediately terminate the benefit certification process.

Workfare Compatibility

The conference report for the 1981 Act expressed the congressional desire that food stamp workfare be sufficiently flexible so as to be compatible with other work-for-benefit structures that States or political subdivisions might use in their other welfare programs.

The conference report language follows:

> The conferees intend that the Secretary, to the maximum extent practicable, make it possible for political subdivisions to design and operate workfare programs for food stamp recipients that are compatible and consistent with similar workfare programs operated by such subdivisions. Compliance on the part of a political subdivision with other workfare programs that the Secretary determines meet the provisions and protections provided under this section shall be treated as compliance with this sections' workfare requirement. (Senate Report 97–290, page 228.)

However, in order to ensure that such compatibility was permitted, Congress included in the 1982 legislation specific statutory guidance to the Secretary. Congress strongly intended that State or local governments wishing to merge food stamp workfare with State and local public assistance workfare programs would be allowed to do so as long as the basic protections of the food stamp structure are preserved.

The 1982 legislation requires the Secretary to establish regulations which will, to the maximum extent practicable, enable a State or local

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government to operate a workfare program which is compatible and consistent with similar workfare programs operated by the subdivision. To further facilitate this objective, the 1982 legislation specifically allows States or local governments to comply with food stamp workfare requirements by using the structure of a workfare program set up in connection with the aid to families with dependent children program. States or localities operating such a program—a community work experience program—are permitted, at their option, to merge or "piggyback" their food stamp workfare into the operation of such an AFDC workfare program.

For example, in States or localities opting to do so, a food stamp recipient (who is not on AFDC) who has a 12-hour per week workfare obligation could be referred to AFDC workfare to be assigned a workfare job to fulfill the 12 hour obligation. If that same recipient was receiving AFDC benefits in an area which required food stamp workfare, and was already participating in AFDC workfare, the food stamp obligation would be added to the number of hours required in AFDC to determine the total workfare commitment.

In other non-AFDC workfare programs the Secretary of Agriculture would have to determine that the program meets the provisions and protections provided in the food stamp workfare program before permitting such a consolidation.

Under this more efficient approach, the work obligation (number of hours) of the recipient is not diminished, but rather the State or local government can operate a consolidated workfare program instead of establishing a separate one specifically for food stamps.

Administrative Expenses

During the first year of the workfare pilot projects, local jurisdictions did not initially receive any Federal reimbursement for the associated administrative expenses. However, during the latter part of the first year's demonstration and for the second year (1981) the Federal Government paid for half of such costs. This latter arrangement was continued in the 1981 Act for optional operation of food stamp workfare.

The 1982 legislation provides additional reimbursement for the operating agency's administrative expenses from the anticipated savings resulting from workfare.

The reimbursement provision provides that when workfare participants become employed during their workfare obligation or within 30 days after completing their workfare obligation, 50 percent of the money saved (from reduced food stamp allotments or discontinuation of participation in the food stamp program) will be available to be returned to the operating agency to help defray the remaining eligible administrative costs of workfare. The reimbursement will be three times the money saved from the decrease in allotments in the first month as a result of the workfare participant's subsequent employment. This formula will provide a standard methodology by which the workfare reimbursement can be measured, and will reduce the administrative work in calculating that reimbursement.

The total reimbursement to the operating agency may not exceed the actual eligible administrative costs associated with food stamp workfare.

The formula utilized to reimburse States or political subdivisions does not necessarily measure the cost-effectiveness or success of workfare programs. For instance, in some cases the formula may overstate savings because some recipients finding employment after workfare participation would have done so in any event. In other circumstances, the formula may understate savings inasmuch as the 3-month limitation may arbitrarily restrict the reimbursement.

Previously, the primary benefit to jurisdictions participating in the workfare pilot projects had been the value of the public service work performed by workfare participants. The value of this work can be quite considerable to local or State governments and private nonprofit organizations.

This further benefit (of reimbursement), recommended by pilot projects, is designed to offset further the local costs associated with workfare. The Federal cost—even with the outlays for added reimbursement—should be negligible, and may, indeed, result in additional Federal savings.

It should be noted that the 1981 legislation requires that workfare participants be reimbursed up to $25 per month for both actual costs of transportation and other actual costs, all of which are reasonably necessary and directly related to participation in the program. The $25 maximum is a reimbursable administrative expense.

Congress in 1981 and 1982 noted that certain other expenses which may be associated with workfare are not federally reimbursable administrative expenses. These include the costs of equipment, tools, or materials used in connection with work performed by workfare participants or the costs of supervising workfare participants. Also, the legislation does not intend that participants be reimbursed for meals away from home.

Regulatory Status

The conferees on the 1981 food stamp legislation intended that the Department expeditiously issue regulations to implement optional workfare.

Proposed regulations were published on June 8, 1982, in the Federal Register—see pages 24968 through 24974. The Department noted that comments would be received for 45 days, through July 23, 1982.

Final regulations were issued on October 8, 1982—see Federal Register pages 44692 through 44701, as printed in appendix II. According to the regulations, interested jurisdictions may begin implementing workfare as early as November 8, 1982, if the workfare program has been approved by the Food and Nutrition Service.

Summary of Preliminary Steps in Considering and Establishing Food Stamp Workfare

For those interested in setting up a workfare program in their State or local government, the following summary is provided to outline general considerations which should be undertaken.

1. Assess the characteristics and number of workfare-eligible food stamp recipients within the jurisdiction.

2. Analyze the current administrative structure within the jurisdiction to determine its present suitability to accommodate workfare interviews and job assignments.

NOTE.—The existence of community work experience program (CWEP) in the aid to families with dependent children program is an acceptable structure. Additionally, other workfare structures in other programs may be acceptable if the Secretary of Agriculture determines that they meet the provisions and protections of food stamp workfare.

3. Identify possible employment needs among local and State government agencies and private nonprofit organizations which could be met by workfare participants. Possibly consider the type of training that a participant could receive at the site and the accessibility of job sites. Consider what provision for transportation or transportation reimbursement to participants the jurisdiction will provide.

4. Consult with the State agency regarding experiences with other workfare operations within the State. Possibly talk with administrators or officials in those areas to determine factors which may also be relevant.

NOTE.—According to the regulations, local jurisdictions are urged, though not required, to send their workfare plans through the State agency. At a minimum, workfare plans must be sent to the State agency at the same time they are submitted to the Food and Nutrition Service of the U.S. Department of Agriculture.

Consult with other jurisdictions that have run food stamp workfare or workfare in other public assistance programs. For instance, as part of a grant from the State of Missouri, Greene County (Springfield) Missouri has established some useful material for setting up workfare. Information can be obtained from Springfield Human Resources Department, 299 East Commercial, Springfield, Missouri 65803, (417) 864–1800.

5. Determine what will be your jurisdiction's policies on a number of issues which are at the operating agency's discretion.

6. Plan procedures to govern workfare implementation, and develop agency forms and proper accounting method for Federal reimbursement of eligible workfare administrative expenses. Confirm with USDA what are reimbursable administrative expenses.

7. Determine in advance of implementation what will be the measurement of "success" from the jurisdiction's perspective and how this measurement will be assessed after implementation.

8. Elected officials and administrators should be in communication throughout the analysis process to ensure a mutually agreed upon direction for implementation of the workfare program. In some cases, a legislative directive may be required. Determine a definite date for implementation.

APPENDIXES

APPENDIX I

FOOD STAMP ACT OF 1977, AS AMENDED (7 U.S.C. 2029)

* * * * * * *

SECTION 20—WORKFARE

SEC. 20. (a)(1) The Secretary shall permit any political subdivision, in any State, that applies and submits a plan to the Secretary in compliance with guidelines promulgated by the Secretary to operate a workfare program pursuant to which every member of a household participating in the food stamp program who is not exempt by virtue of the provisions of subsection (b) of this section shall accept an offer from such subdivision to perform work on its behalf, or may seek an offer to perform work, in return for compensation consisting of the allotment to which the household is entitled under section 8(a) of this Act, with each hour of such work entitling that household to a portion of its allotment equal in value to 100 per centum of the higher of the applicable State minimum wage or the Federal minimum hourly rate under the Fair Labor Standards Act of 1938.

(2)(A) The Secretary shall promulgate guidelines pursuant to paragraph (1) which, to the maximum extent practicable, enable a political subdivision to design and operate a workfare program under this section which is compatible and consistent with similar workfare programs operated by the subdivision.

(B) A political subdivision may comply with the requirements of this section by operating—

(i) a workfare program pursuant to title IV of the Social Security Act (42 U.S.C. 601 et seq.); or

(ii) any other workfare program which the Secretary determines meets the provisions and protections provided under this section.

(b) The household members who shall be exempt from workfare requirements are those who are (1) mentally or physically unfit; (2) under eighteen years of age; (3) sixty years of age or over; (4) at the option of the operating agency, subject to and currently actively and satisfactorily participating at least twenty hours a week in a work training program under a work registration requirement pursuant to title IV of the Social Security Act; (5) a parent or other member of a household with responsibility for the care of a child under age six or of an incapacitated person; (6) a parent or other caretaker of a child in a household where there is another member who is subject to the requirements of this subsection or is employed full time; (7) a regular participant in a drug addiction or alcoholic treatment and rehabilitation program; or (8) an individual described in section 6(d)(2)(D) or (F) of this Act.

(c) No operating agency shall require any participating member to work in any workfare position to the extent that such work exceeds in value the allotment to which the household is otherwise entitled or that such work, when added to any other hours worked during such week by such member for compensation (in cash or in kind) in any other capacity, exceeds thirty hours a week.

(d) The operating agency shall—

(1) not provide any work that has the effect of replacing or preventing the employment of an individual not participating in the workfare program;

(2) provide the same benefits and working conditions that are provided at the job site to employees performing comparable work for comparable hours; and

(3) reimburse participants for actual costs of transportation and other actual costs all of which are reasonably necessary and directly related to

participation in the program but not to exceed $25 in the aggregate per month.

(e) The operating agency may allow a job search period, prior to making workfare assignments, of up to thirty days following a determination of eligibility.

(f) In the event that any person fails to comply with the requirements of this section, neither that person nor the household to which that person belongs shall be eligible to participate in the food stamp program for two months, unless that person or another person in the household satisfies all outstanding workfare obligations prior to the end of the two-month disqualification period.

(g) (1) The Secretary shall pay to each operating agency 50 per centum of all administrative expenses incurred by such agency in operating a workfare program, including reimbursements to participants for work-related expenses as described in subsection (d) (3) of this section.

(2) (A) From 50 per centum of the funds saved from employment related to workfare program operated under this section, the Secretary shall pay to each operating agency an amount not to exceed the administrative expenses described in paragraph (1) for which no reimbursement is provided under such paragraph.

(B) For purposes of subparagraph (A), the term "funds saved from employment related to a workfare program operated under this section" means an amount equal to three times the dollar value of the decrease in allotments issued to households, to the extent that such decrease results from wages received by members of such households for the first month of employment beginning after the date such members commence such employment if such employment commences—

(i) while such members are participating for the first time in a workfare program operated under this section; or

(ii) in the thirty-day period beginning on the date such first participation is terminated.

(3) The Secretary may suspend or cancel some or all of these payments, or may withdraw approval from a political subdivision to operate a workfare program, upon a finding that the subdivision has failed to comply with the workfare requirements.

APPENDIX II

Food Stamp Workfare Regulations

(Federal Register, Friday, Oct. 8, 1982, pp. 44692–44701)

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 272 and 273

[Amdt. No. 217]

Optional Workfare Program

AGENCY: Food and Nutrition Service, USDA

ACTION: Final rule

SUMMARY: The Food Stamp and Commodity Distribution Amendments of 1981 (Pub. L. 97–98), enacted on December 22, 1981, provide the option for any political subdivision, in any State, to establish a workfare program as a component of the Food Stamp Program. The objective of this final rule is to permit those State agencies or political subdivisions choosing to establish a workfare program to do so for eligible for stamp recipients. Workfare-eligible recipients would be assigned to public service work in return for the household's food stamp allotment. The work would be valued at a rate equivalent to the greater of the Federal or State minimum wage. The Food Stamp Act Amendments of 1982 (Pub. L. 97–253), enacted on September 8, 1982, made certain changes in the law. Those changes which did not leave any discretion to the Department have been incorporated into this rule.

EFFECTIVE DATE: This rule is effective on November 8, 1982.

FOR FURTHER INFORMATION CONTACT: Questions regarding this proposed rulemaking should be directed to Thomas O'Connor, Supervisor, Policy and Regulations Section. Programs Standards Branch, Program Development Division, Family Nutrition Programs, Food and Nutrition Service, USDA, Alexandria, Virginia, 22302 or by telephone at (703) 756–3429.

SUPPLEMENTARY INFORMATION

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507), the reporting and recordkeeping provisions that are included in this final rule have been approved by the Office of Management and Budget (OMB). (OMB approval No. 0584–0285.)

Classification

Executive Order. This rule has been reviewed under Executive Order 12291 and Secretary's Memorandum No. 1512–1, and has been classified "not major." The rule will not have an annual effect on the economy of $100 million or more, nor will it likely result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions. Because this rule will not affect the business community, it will not result in significant adverse effects on competition, employment, investment, productivity or innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act. This final rule has also been reviewed with regard to the requirements of Pub. L. 96–354. Samuel J. Cornelius, Administrator of

the Food and Nutrition Service has certified that the rule will not have a significant economic impact on a substantial number of small entities. The rule will implement those provisions of Section 1333 of Pub. L. 97–98, the Food Stamp and Commodity Distribution Amendments of 1981, which require the establishment of an optional workfare program. State and local welfare agencies will be affected to the extent that they are involved in administering the workfare program. Political subdivisions will also be affected if they choose to administer a workfare program. Those most affected will be individuals participating in the Food Stamp Program who live in an area operating a workfare program and meet the eligibility requirements for participating in such a program.

Introduction

On June 8, 1982, the Department issued proposed regulations (47 FR 24968) to implement Section 1333 of the Food Stamp and Commodity Distribution Amendments of 1981 (Pub. L. 97–98) which provided for the establishment of workfare programs at the option of political subdivisions. The Department received a total of 94 comment letters from State welfare agencies, State employment services, local agencies, FNS Regional Offices, another Federal agency, public interest groups, and individuals. This preamble discusses changes made in the final rule which result from comments received. We have also clarified several points where commenters expressed confusion. Most comments which request changes contrary to the legislation are not discussed in the preamble. The rationale contained in the June 8 proposed rule should be regarded as the basis for the final rule, where the rule is unchanged.

We would also like to point out that the workfare concept has also been adopted into law for the Aid to Families with Dependent Children Program (AFDC) (Pub. L. 97–35). The Department of Health and Human Services issued final regulations for the Community Work Experience Program (CWEP) on February 5, 1982 (45 CFR Part 238). This program is optional for State agencies and permits the establishment of a workfare requirement for eligible AFDC recipients.

Voluntary Workfare

The Department received a number of comments noting that another available option, per legislative history (S. Rep. No. 97–290, 97th Cong., 1st Sess., p. 228 (1981)), was the establishment of a workfare program where participation is voluntary for the recipients. The Department recognizes that this may have been intended by Congress as an option to be offered to State agencies and political subdivisions, and has revised the rule accordingly. However, the Department is concerned about the cost effectiveness of such programs. The Department will not approve plans which do not show that the benefits of establishing the workfare program, in terms of hours worked by participants and reduced food stamp allotments due to successful job attainment, are expected to exceed the costs of establishing such a program. In addition, if the Department finds that an approved voluntary program is too costly for the number of participants it is serving, the Department reserves the right to withdraw approval.

An additional option which several commenters thought was available, per the statutory language, was that participants had a choice between workfare and job search in all workfare programs. The Department does not agree that this was intended by the statute. It is provided in the legislative history that, "to the extent that workfare and job search requirements conflict, job search activities should take precedence" (H.R. Rep. No. 97–106, 97th Cong., 1st Sess., p. 168 (1981)). This infers that both obligations may exist concurrently. In addition, the weekly limit on workfare hours is intended to assure that time remain for job search activities.

Program Administration

Seventeen commenters thought that political subdivisions should be further defined to facilitate program administration and prevent areas like water districts and school districts from submitting plans. Fourteen of these commenters thought it should be limited to areas administering the Food Stamp Program. Many of these fourteen cited the House Committee Report (H.R. Report No. 97–106, page 57) to support their position. The Department has chosen not to amend the rule to limit eligible political subdivisions. The Department thinks Congress was clear, by not limiting the definition of political subdivision in the statute, conference report (S. Report No. 97–290, pages 226–228), or any other

portion of the House Committee Report, that any political subdivision should be permitted to submit a plan. Limiting eligibility to those political subdivisions which administer the Food Stamp Program would preclude any county or city in a State which administers the Food Stamp Program from implementing workfare. For example, if a State agency administers the Food Stamp Program and a city chooses to implement workfare, the city would not be able to do so. The Department does not believe this was Congress' intention.

The proposed rule stated that State agencies would act as authorized agents for FNS by being responsible for ensuring compliance by workfare programs with the workfare regulations and for disbursing funds to workfare programs. Thirteen commenters, three of which were State agencies, thought FNS should be responsible for the monitoring of workfare programs since no mention of State agency involvement was provided in the statute. One State agency commented in favor of our proposal. In light of these comments, the Department has reexamined this issue and made the following change. State agencies will now have the option of assuming the responsibility of monitoring and ensuring compliance of workfare programs. However, there will not be an option regarding the disbursing of Federal funds. Federal funding will continue to go through the State agency Letter of Credit, as provided in the proposed rule, and disbursed to workfare programs by the State agency.

Three other State agencies commented that FNS should fund any activities undertaken by State agencies in the role of authorized agents at 100 percent instead of the regular 50 percent rate. Since the Department is leaving this role as an option, the Federal participation will remain at 50 percent.

State Agency Policy Decisions

Upon review of comments, the Department has decided that certain policy decisions, not specified by the statute or legislative history, should be left to the State agencies. This is consistent with this Administration's policy of enhancing State flexibility. These decisions are in the areas of reimbursable expenses to participants, good cause, and application of sanctions to households which split into two or more households. The State agency may, by not taking any action, use the policy established in this rule for those three areas. On the other hand, the State agency may submit for approval to FNS its policy in any or all of these areas. These policies will be approved according to their compliance with the workfare statute and legislative history. Consequently, transportation, which is reimbursable according to the statute, shall be integrated into the State policy on reimbursable expenses. Likewise, the cost of meals away from home is not reimbursable, as provided in the conference report (Senate Report No. 97–290, page 228). Upon obtaining approval of a policy by FNS, all workfare programs within that State shall operate according to that policy. Until that approval is obtained, the Federal policy provided in this rule shall apply. The rule has been amended accordingly.

Participant Reimbursement

Several respondents commented that the cost of child care should be included as a reimbursable cost to the participant if it is necessary to meet the workfare obligation and two other commenters requested clarification on the treatment of child care. This cost was intended to be reimbursable by the proposed rule as a cost "reasonably necessary and directly related to participation in the program."

This has been clarified in the final rule through specific identification of child care as a reimbursable cost. It should be noted, however, that child care which has been reimbursed cannot be used to determine the amount of the child care deduction in determining household benefits. This has also been added to the rule.

A number of commenters discussed the $25 limit on reimbursements per participant per month. Most of these thought this amount was not sufficient to cover expenses. Two commenters thought the amount would lead to prohibitive expenses for local agencies. The $25 is, however, a statutory requirement and has not been revised. Four other respondents commented that this limit is only on the amount that FNS would share; there is no limit on how much may be reimbursed to the participant. This is a correct interpretation which was intended by the Department and has been clarified in the rule. Reimbursing costs which exceed $25 per participant per month is a local option and a local expense.

One respondent, citing the House Committee Report (H.R. Rep. No. 97–106, p. 167), commented that it was Congress' intention that participants be reimbursed for all actual costs of transportation plus up to $25 per participant per month for other work-related expenses. However, the statutory language and the more recent Conference Report (S. Rep. No. 97–290, p. 228) indicate that all work-related reimbursements, including transportation, be considered in the $25 per participant per month limit. In addition, this statutory provision was designed after the identical CWEP regulatory provision which includes transportation in the $25 limit. Consequently, the Department has not amended this provision.

Sanctions

Many comments were received on the sanctions policy. Some respondents requested statutory changes which cannot be made here. Several requested clarification on how sanctions would be imposed in specific situations. As a result of these requests, a few additions have been made to the rule. The first clarification addresses when the sanction for noncomplying households begins. For those households still participating in the program, the disqualification shall begin the first possible month that the sanction can be placed. For those households no longer participating in the program, the disqualification shall begin whenever the household returns to the program. Consequently, if a household leaves the food stamp program before the sanction can be levied, the sanction will pend until the household returns to the program. Once the sanction begins, however, it runs through to its conclusion regardless of the household's status.

The regulations have also been amended to clarify that a two month sanction is levied for each month that a household is certified for food stamps while not complying with workfare requirements. In other words, if a household did not comply for two consecutive months without having good cause [which may occur due to the timing of obligations], then the household would be sanctioned for four consecutive months [two months of noncompliance times two month sanctions]. The State agency will inform the household of the penalty for failure to comply at the time the household is informed of the nature of the workfare program.

The third clarification made is in the situation where a household to be sanctioned splits into two or more households. The workfare sanction is to be applied to all household members. Even though a household splits, each individual member will still be subject to disqualification. Consequently, if one household member leaves the household and the program, the remaining household members would be ineligible to receive benefits for the sanction period. In cases where only part of the original household is still participating in the program, the disqualification period will begin for all of the members once the sanction can be levied against any one. Upon completion of the sanction period, all of the original household members would again be eligible to receive benefits. If a departing household member has joined another food stamp household, that member would be ineligible to participate for the sanction period. When determining eligibility and allotment, the individual will not be included in the household's size. However, all of that member's income and resources would be included in determining the new household's benefits. Applying the sanctions in this manner ensures that the whole household, as it existed during the time of noncompliance, is penalized, just as it would have been if the household did not separate. To permit the remaining household members to avoid the penalty, by only applying it to the noncomplying member, would encourage household breakup. The Department believes this was not Congress' intent and should be avoided.

Unemployment Insurance Recipients

Seven commenters indicated that Unemployment Insurance [UI] recipients should be exempt from workfare since they are required in most States to be available for work 40 hours a week. The commenters suggested that by being involved in workfare, the UI recipients risk losing their UI benefits. This provision is a statutory provision and as such cannot be changed. It is clear, however, that workfare assignments are secondary to finding regular employment. If a workfare participant is notified of a job interview to attend in order to comply with UI requirements, that interview would take precedence over the workfare assignment. The Department has clarified this in the final rule. One

commenter noted that the intent of the legislation is that UI applicants as well as UI recipients be subject to workfare. The Department agrees and the rule has been changed accordingly.

Prime Designee

Five respondents requested that the prime designee concept from the Food Stamp Workfare Demonstration Projects be incorporated into the rule. The prime designee is the one individual in a household who is workfare eligible and designated by the household as being responsible for the workfare obligation. If a household has more than one household member eligible for workfare, only the one designated by the household would be referred to the operating agency as being available to work. If that "prime designee" fails to comply with the workfare obligation, it would be the household's responsibility to have one of the other workfare eligible household members report to the operating agency for assignment. Otherwise, the household will be sanctioned.

The Department has not added the prime designee concept to the rule. The Department cannot restrict all those State agencies and political subdivisions wishing to operate a workfare program by requiring the establishment of such a system. However, there is nothing in this rule that precludes an operating agency from establishing a prime designee system for their program.

Good Cause

A number of additions to good cause reasons were requested by commenters. One was that reference to "adequate" child care be made, in the already existing provision that lack of child care for any children is a household between the ages of six and twelve is good cause for noncompliance by the parent or caretaker. Commenters noted that adequate child care is used in the CWEP regulations in reference to children between the ages of three and six. The Department agrees that this should be a concern and has adopted the CWEP provision by changing the rule accordingly. Commenters also requested that where work expenses exceed the amount reimbursed by the operating agency, good cause exists for noncompliance. Since the Department agrees that it was the intention of the legislation that participants not be required to spend their scarce resources to participate in workfare, this provision has been added to the rule. This is also consistent with the CWEP regulations which do not permit AFDC recipients to be required to participate in CWEP without being reimbursed for work expenses. Ten commenters requested that inappropriate work assignments be considered good cause for noncompliance. The Department has not added this to the rule because the decision of what is appropriate work for those able to work is a decision that should be left with the operating agency. Paragraph (f)(2)(iii) already considers specific work assignments unsuitable for participants that demonstrate that they are physically or mentally unfit to perform that work.

Regular Worker Protections

Fourteen commenters expressed concern that paragraph (f)(2)(viii) did not provide sufficient protection against the displacement of regular workers. The complaint was that a public agency could easily prove that insufficient funds were available to sustain staff levels and thus continue to use workfare participants although regular workers would have been accommodated were workfare participants not available. The commenters requested deletion of the phrase which permits the use of workfare participants to fill vacancies when proof of insufficient funds can be provided. The Department has chosen not to remove the phrase because there may indeed be instances where use of workfare participants to fill certain vacancies would be valid due to funding limitations precluding the filling of those positions. However, since displacement of regular workers is a statutory prohibition, this will be monitored closely.

Grievance Procedure

Twelve respondents commented that grievance procedures should be established and maintained for workfare participants in addition to the already existing fair hearing process. While such a system is already established in the State agency for various recipient complaints and the Department is sure that most operating agencies would have chosen to establish such a system, the

Department has incorporated a provision in this rule allowing the establishment of a grievance procedure by the operating agency. The Department believes that such a procedure will help avoid an increase in the fair hearing burden. It will permit workfare participants to raise to the operating agency complaints regarding their working conditions or perceived noncompliance by job sites with the workfare regulations, and permit the operating agency to resolve those complaints without having to rely on the fair hearing process. However, this grievance procedure does not replace the fair hearing process nor does a workfare participant need to go through the grievance procedure before requesting a fair hearing.

Benefits and Working Conditions

Three respondents commented on the equal benefits and working conditions provisions which state that workfare participants should receive equal benefits and working conditions as those provided to similarly employed individuals. Generally, the commenters thought the provisions would be a deterrent to job site participation due to the expenses and administrative difficulty of meeting them. These are statutory provisions and, consequently, have not been changed. However, the Department did not intend, nor does it think it was the statute's intention that workfare recipients be provided health benefits through the job site's health plan or paid vacations like those received by the paid employees. Workfare participants are not employees in the technical sense. The work performed is done as a condition of eligibility to receive the benefits their household has been certified to receive. The provisions of this rule are intended to ensure that the benefits and working conditions related to the actual work performed, not the employment by a particular agency, and provided to similarly employed individuals doing similar work, are provided to workfare participants. This includes benefits such as worker's compensation and working conditions such as coffee breaks, lunch periods, and personal safety equipment. The determination of what constitutes similarly employed individuals is left to the operating agency.

Job Search Period

The proposed rule stated that a job search period of up to 30 days following household certification may be established prior to assigning a recipient to a workfare job. One commenter questioned whether or not the 30-day job search period would be applicable after a household disqualification. The Department has chosen to let this decision remain a local option.

Status of Participant While Awaiting Fair Hearing

The proposed rule stated that a household would, if otherwise determined eligible, continue to have a workfare obligation while awaiting the outcome of a fair hearing. One commenter noted that this meant a household claiming an exemption through the fair hearing process would still be required to participate in workfare and face a sanction if it did not comply during those months between the fair hearing request and the fair hearing decision. This is correct. The participant may choose to continue to not comply while awaiting the fair hearing. In such a case, the household would continue to receive benefits. However, if the fair hearing results in an adverse finding, the household will be sanctioned for each month that it was certified for food stamps while failing to comply with workfare requirements.

Notice to Operating Agency

One commenter thought the notice from the State agency to the operating agency should include the hours of obligation and an indication of any part-time employment the potential participant may have. Upon review, the Department did amend the requirements of the notice, though not exactly as the commenter requested. The notice requirements have now been changed to require an indication of any part-time work which will assure that the State agency and operating agency do not receive different reports on the household's work situation. However, only if the State agency is calculating the hours of obligation should the hours be included on the notice. If the operating agency is computing the hours, as permitted in paragraph (d)(2), the monthly allotment will be included.

Reporting Requirements

The proposed rule stated that the State agency would submit quarterly reports to FNS, within 45 days of the end of each quarter, which provide certain workfare statistics for that quarter. One State agency and one local agency commented that the 45-day reporting deadline would be impossible to meet. The local agency suggested a 60-day deadline. Since more comments were not received on this issue, the Department did not change this deadline. However, it will review requests for specific waivers submitted by the State agencies. In such a request, the State agency would need to demonstrate why an extension is necessary.

Client Confidentiality

One commenter noted that regulations restricting disclosure or use of information obtained from food stamp households were missing. The rule has been amended to reference § 272.1(c) which provides for restrictions on disclosure or use of this information.

Round Down Obligation

One respondent commented that there should be a provision to round down hours of obligation if a fraction of an hour is left when making the calculation. The Department has chosen to leave this decision as a local option and has amended the rule to indicate this. Fractions of hours may be rounded down or households may be required to work those fractions. However, in no instance may the number be rounded up since a household may not be required to work more than those hours determined by dividing the household's allotment by the minimum wage.

Federal Liability

The proposed rule stated that the Federal government is not the employer of workfare participants and, consequently, does not assume any liability for injury or death of a workfare participant while on the job. Upon review, the Department recognized that Federal agencies may be job site sponsors and has amended the rule to acknowledge this possibility. However, all Federal agencies need to check with their own statutory limitations on use of volunteers prior to providing work for workfare participants.

Persons Subject To Workfare

In the proposed rule, the Department identified persons subject to workfare by referencing the work registration regulations to identify those subject to work registration and then identifying those additional groups also eligible for workfare. In so doing, the Department failed to include as eligible those parents or other household members responsible for the care of a dependent child between six and twelve. Regulations establishing this group as being subject to the work registration requirement have not yet been issued. Consequently, the Department has amended this rule to conform with the statute by establishing this group as being eligible for workfare.

Changes Resulting From Recent Legislation

Changes in the workfare legislation have been made as a result of provisions in the Food Stamp Act Amendments of 1982. The Department has determined that three of those provisions leave no discretion for the Department and, consequently, can be included in this final rule.

Hours of Workfare. The maximum number of workfare hours to be required of any participant per week has been raised to 30. The maximum number of hours which may be required including any other hours worked remains at 30 per week.

Similar Workfare Programs. A provision which permits the operation of joint workfare/CWEP programs, as well as combining workfare with other workfare-type programs when the Department approves, was included in the legislation. This provision was previously part of the legislative history and the proposed regulations were designed accordingly. Changes have been made in this final rule to clarify this provision.

WIN Participants. The operating agency will now have the option of exempting or not exempting recipients who are "* * * subject to and currently actively

and satisfactorily participating" more than 20 hours per week in WIN. If an operating agency chooses not to exempt a WIN participant, the hours of WIN participation will be counted towards the 30 hour per week limit. Recipients who are exempt from workfare as a result of being students enrolled at least half time in training programs other than WIN are not included in this option and may not be subject to workfare.

The Department, upon review of this provision has amended its interpretation indicated in the proposed rule. The Department provided in the proposed rule that CWEP participants be included with WIN participants as being exempt from workfare when participating more than 20 hours per week. However, the recent legislation has made it clear, by referring specifically to WIN participants, that Congress did not intend that CWEP participation be included in the 20 hour limit. Consequently, the rule has been amended so that involvement in CWEP for more than 20 hours is not grounds for an exemption. However, the 30 hour per week limit on hours of work per week will still be applicable to joint CWEP and workfare participation.

Conforming Amendments

According to these regulations, if an individual fails to comply with the workfare requirements, without good cause, the State agency must disqualify the entire household. The Department is making conforming amendments, in four different areas, to implement this policy.

The first conforming amendment, at 7 CFR 273.1(b)(6), includes these household members in the definition of "disqualified individuals". The second conforming amendment, at 7 CFR 273.8(j) requires the State agency to count the disqualified individual's resources when determining the household's eligibility. The third conforming amendment, at 7 CFR 273.9(b)(3), requires the State agency to count the disqualified individual's entire income in determining the household's eligibility and calculating its allotment. The fourth conforming amendment, at 7 CFR 273.11c, restates the procedures for handling resources and income which are required by 7 CFR 273.22(f)(6)(iii).

Implementation

This rule is effective November 8, 1982. Workfare programs may be implemented after this date provided FNS has approved the workfare plan. Workfare plans may be submitted for approval prior to this date.

List of Subjects

7 CFR Part 272

Alaska, Civil rights, Food stamps. Grant program—social programs. Reporting and recordkeeping requirements.

7 CFR Part 273

Administrative practice and procedure, Aliens, Claims, Food stamps, Fraud, Grant programs—social programs, Penalties, Reporting and recordkeeping requirements, Social security, Students.

Accordingly, 7 CFR Parts 272 and 273 are being amended as follows:

PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

1. A new paragraph (42) is added to § 272.1(g) as follows:

§ 272.1 General terms and conditions

* * * * * * *

(g) *Implementation.* * * *

(42) *Amendment 217.* The regulations concerning the optional workfare program contained in Amendment 217 shall be in effect November 8, 1982. Workfare programs may be implemented after this date provided FNS has approved the workfare plan.

2. In § 272.2, a new sentence is added to the end of paragraph (a)(2) to read as follows:

§ 272.2 Plan of operation

(a) *General Purpose and Content.* * * *

(2) *Content.* * * * The Workfare Plan is also considered part of the State Plan of Operation, but is submitted separately as prescribed under § 273.22.

* * * * * * *

PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

3. In § 273.1, paragraph (b)(6) is revised to read as follows:

§ 273.1 Household concept

* * * * * * *

(b) *Nonhousehold members.* * * *

(6) *Disqualified individuals.* Individuals disqualified for fraud, as set forth in § 273.16, for failure to provide an SSN, as set forth in § 273.6, or for failure to comply with workfare requirements, as set forth in § 273.22.

* * * * * * *

4. In § 273.8, paragraph (j) is revised to read as follows:

§ 273.8 Resource eligibility standards

* * * * * * *

(j) *Resources of nonhousehold members.* The resources of nonhousehold members, defined in § 273.1(b), shall not be counted as available to the household unless the member is:

(1) Disqualified from the program for fraud, in accordance with § 273.16;

(2) Disqualified from the program for failing to comply with the requirement to provide an SSN in accordance with § 273.6;

(3) Disqualified from the program for failing to comply with workfare requirements in accordance with § 273.22; or

(4) An ineligible alien in accordance with § 273.4 who would be considered a household member if not for his or her ineligible alien status.

(5) In § 273.9, a new sentence is added to paragraph (b)(3) to read as follows:

§ 273.9 Income and deductions

* * * * * * *

(b) *Definition of income.* * * *

(3) * * * The earned or unearned income of an individual disqualified from the household for failing to comply with workfare requirements, in accordance with § 273.22, shall continue to be attributed in their entirety to the remaining household members.

* * * * * * *

6. In § 273.11, paragraph (c) is revised to read as follows:

§ 273.11 Action on households with special circumstances

(c) *Treatment of income and resources of disqualified members.* Individual household members may be disqualified for failing to comply with workfare requirements, for fraud, for refusal to obtain or to provide an SSN, or for being an ineligible alien. During the period of time that such household members are ineligible, the eligibility and benefit level of any remaining household members shall be determined in accordance with the procedures outlined in this section.

(1) *Disqualification for failing to comply with workfare requirements.* The eligibility and benefit level of a household which contains an individual who is disqualified for this reason shall be determined as follows:

(i) *Income, resources, and deductible expenses.* The income and resources of the disqualified member shall continue to count in their entirety, and the entire household's allowable earned income, standard, medical, dependent care, and excess shelter deductions shall continue to apply to the remaining household members.

(ii) *Eligibility and benefit level.* The disqualified member shall not be included when determining the household's size for the purposes of assigning a benefit level to the household or of comparing the household's monthly income with the income eligibility standards. The State agency shall ensure that no household's coupon allotment is increased as a result of the disqualification of one or more household members.

(2) *Disqualification for other causes.* The eligibility and benefit level of any remaining household members of a household containing individuals disqualified for fraud, for refusal to obtain or to provide an SSN, or for being an ineligible alien shall be determined as follows:

(i) *Resource.* The resources of such disqualified members shall continue to count in their entirety to the remaining household members.

(ii) *Income.* A pro rata share of the income of such disqualified members shall be counted as income to the remaining members. This pro rata share is calculated by first subtracting the allowable exclusions from the disqualified member's income and dividing the income evenly among the household members, including the disqualified members. All but the disqualified members' share is counted as a deductible shelter expense for the remaining household members.

(iii) *Deductible expenses.* The 18 percent earned income deduction shall apply to the prorated income earned by such disqualified members which is attributed to their households. That portion of the households' allowable shelter and dependent care expenses which are either paid by or billed to the disqualified members shall be divided evenly among the households' members, including the disqualified members. All but the disqualified members' share is counted as a deductible shelter expenses for the remaining household members.

(iv) *Eligibility and benefit level.* Such disqualified members shall not be included when determining their households' sizes for purposes of assigning a benefit level to the households or for purposes of comparing the households' monthly incomes with the income eligibility standards.

(3) *Reduction or termination of benefits within the certification period.* Whenever an individual is disqualified within the household's certification period, the State agency shall determine the eligibility or ineligibilty of the remaining household members based, as much as possible, on information in the case file.

(i) *Fraud disqualification.* If a household's benefits are reduced or terminated within the certification period because one of its members had been disqualified for fraud, the State agency shall notify the remaining members of their eligibility and benefit level at the same time the disqualified member is notified of his or her disqualification. The household is not entitled to a notice of adverse action but may request a fair hearing to contest the reduction or termination of benefits.

(ii) *Disqualification for other causes.* If a household's benefits are reduced or terminated within the certification period because one or more of its members failed to comply with workfare's requirements, refused to obtain or provide an SSN, or is an ineligible alien, the State agency shall issue a notice of adverse action in accordance with § 273.13(a)(2) which informs the household of the disqualification, the reason for the disqualification, the eligibility and benefit level of the remaining members, and the actions the household must take to end the disqualification.

* * * * * * *

7. A new § 273.22 is added to read as follows:

§ 273.22 Optional workfare program

(a) *General.* This section contains rules which are to be followed in operating a Food Stamp Workfare Program. Under this program, nonexempt food stamp recipients may be required to perform work in a public service capacity as a condition of eligibility to receive the coupon allotment to which their household is normally entitled. The primary goal of workfare is to improve employability and enable individuals to move into regular employment.

(b) *Program Administration.* (1) Any State food stamp agency or other political subdivision in any State choosing to establish and operate a workfare program must submit for FNS approval a workfare plan in accordance with the requirements of this section. For the purpose of this section, a political subdivision is any local government, including, but not limited to, any county, city, town or parish. A State agency may implement a workfare program statewide or in only some areas of the State. The areas of operation must be identified in the State workfare plan.

(2) Political subdivisions are encouraged, but not required, to submit their plans to FNS through their respective State agencies. At a minimum, however, plans shall be submitted to the State agencies concurrent with their submission to FNS. Workfare plans and subsequent amendments shall not be implemented prior to their approval by FNS.

(3) When a State agency chooses to sponsor a workfare program by submitting a plan to FNS, it shall append the approved plan to its State Plan of Operations. When a political subdivision chooses to sponsor a workfare program by submitting a plan to FNS, the State agency shall be responsible as a facilitator in the administration of the program by disbursing Federal funding and meeting the requirements identified in paragraph (d) of this section. Upon notification that FNS has approved a workfare plan submitted by a political subdivision in its State, the State agency shall incorporate that political subdivision's workfare plan into its own State Plan of Operations.

(4) The operating agency is that administrative organization which has been identified in the workfare plan as being responsible for establishing job sites, assigning eligible recipients to the job sites, and meeting the requirements of this section. The operating agency may be any public or private, nonprofit organization. The State agency or political subdivision which submitted the workfare plan shall be responsible for monitoring the operating agency's compliance with the requirements of this section or of the workfare plan. The Secretary may suspend or terminate some or all workfare program funding, or withdraw approval of the workfare program from the State agency or political subdivision which submitted the workfare plan upon finding that that State agency or political subdivision, or their respective operating agencies have failed to comply with the requirements of this section or of the workfare plan.

(5) State agencies or other political subdivisions shall describe in detail in the plan how the political subdivision, working with the State agency and any other cooperating agencies that may be involved in the program, shall fulfill the provisions of this section. The plan shall include workload projections, staffing plans, interagency communication plans, and specific operational agreements developed by the agencies involved. The plan shall be a one-time submittal, with amendments submitted as needed to cover any changes in the workfare program as they occur.

(6) State agencies or political subdivisions submitting a workfare plan shall submit with the plan an operating budget covering the period from the initiation of the workfare program's implementation schedule to the close of the Federal fiscal year. In addition, an estimate of the cost for one full year of operations shall be submitted together with the workfare plan. For subsequent fiscal years, the workfare program budget shall be included in the State agency's budget.

(7) If workfare plans are submitted by more than one political subdivision, each representing the same population (such as a city within a county), the Department shall determine which political subdivision will have its plan approved. Under no circumstances shall a food stamp recipient be subject to more than one food stamp workfare program. If a political subdivision chooses to operate a workfare program and represents a population which is already, at least in part, subject to a food stamp workfare program administered by another political subdivision, it must establish in its workfare plan how food stamp recipients will not be subject to more than one food stamp workfare program.

(c) *Operating Agency Responsibilities.* (1) The operating agency, as designated by the State agency or other political subdivision which submits a plan, shall be responsible for establishing and monitoring job sites, interviewing and assessing eligible recipients, assigning eligible recipients to appropriate job sites, monitoring participant compliance, making initial determinations of good cause for household noncompliance, and otherwise meeting the requirements of this section.

(2) Establishment of Job Sites. Workfare job slots may only be located in public or private, nonprofit agencies. Contractual agreements must be established between the operating agency and organizations providing jobs which include but are not limited to designation of the slots available and designation of responsibility for provision of benefits, if any are required, to the workfare participant.

(3) Notifying State Agency of Noncompliance. The operating agency shall notify the State agency of noncompliance by a household with a workfare obligation when it has determined that the household did not have good cause for the non-compliance. This notification shall occur within five days of such

determination so that the State agency may make a final determination as provided in paragraph (d)(4) of this section.

(4) Notifications. Notices shall be established to be used as follows:

(i) For the State agency to notify the operating agency of workfare-eligible households. Included in this notice shall be the case name, case number, names of workfare-eligible household members, address of the household, certification period, and indication of any part-time work. If the State agency is calculating the hours of obligation, this shall also be included in this notice. If the operating agency is computing the hours to be worked, the monthly allotment shall be included.

(ii) For operating agencies to notify the workfare participant of where and when the participant is to report, to whom the participant is to report, a brief description of duties for the particular placement, and the number of hours to be worked.

(iii) For operating agencies to notify the State agency of failure by a household to meet its workfare obligation.

(5) Recordkeeping Requirements.

(i) Files must be maintained which record activity by workfare participants. At a minimum, these records must contain job sites and hours assigned, hours completed, and communications with the State agency and job sites.

(ii) Program records shall be maintained in an orderly fashion, for audit and review purposes, for a period of 3 years from the month of origin of each record. Fiscal records and accountable documents shall be retained for 3 years from the date of fiscal or administrative closure of the workfare program. Fiscal closure, as used in this paragraph, means that workfare program obligations for or against the Federal government have been liquidated. Administrative closure as used in this paragraph, means that the operating agency or Federal government has determined and documented that no further action to liquidate the workfare program obligation is appropriate. Fiscal records and accountable records shall be kept in a manner which will permit verification of direct monthly reimbursements to recipients, in accordance with paragraph (f)(4) of this section.

(6) Reporting Requirements. The operating agency shall be responsible for providing information needed by the State agency to fulfill the reporting requirements stated in paragraph (d)(6) of this section.

(7) Disclosure. The provision of § 272.1(c) restricting the use and disclosure of information obtained from food stamp households shall be applicable to the administration of the workfare program.

(8) Grievance Procedures. The operating agency may establish a system for handling complaints filed by workfare participants regarding their working conditions, perceived noncompliance by job sites with the provisions of this section or any other area related to their workfare participation. This procedure need not handle complaints that can be pursued through a fair hearing nor may choosing not to use this procedure preclude a participant from requesting a fair hearing. If established, a description of this system shall be included in the workfare plan. Complaints which have not been resolved through this system and those against the operating agency shall be forwarded to the State agency and handled by the State agency according to the provisions of § 271.6. Workfare participants shall be informed of the grievance procedure.

(d) *State Agency Responsibilities.* (1) If a political subdivision chooses to operate a workfare program, the State agency shall cooperate with the political subdivision in developing a plan. This includes providing caseload and cost estimates, as well as being available for consultation on the design of the administrative structure and interagency communications for the program. The State agency may decide what its workfare policy shall be in three areas. They are the definition of reimbursable expenses, the definition of good cause, and the sanctioning of members of divided households (paragraphs (f)(4), (f)(5), and (f)(6)(ii) of this section, respectively). The State agency may either accept the policies contained in these paragraphs or determine its own policies, subject to the requirements of section 20 of the Food Stamp Act of 1977, as amended, and the approval of FNS. Until the Food and Nutrition Service approves any alternate policies of the State agency, the provisions of paragraphs (f)(4), (f)(5), and (f)(6)(ii) of this section shall apply.

(2) The State agency shall determine at certification or recertification which household members are eligible for the workfare program and inform the household representative of the nature of the program and of the penalties for noncompliance. If the State agency is not the operating agency, each member of a

household who is subject to workfare under paragraph (e)(1) of this section shall be referred to the organization which is the operating agency. The information identified in paragraph (c)(4)(i) of this section shall be forwarded to the operating agency within 5 days after the date of household certification. Computation of hours to be worked may be delegated to the operating agency.

(3) The State agency shall inform the household and the operating agency of the effect of any changes in a household s circumstances on the household's workfare obligation. This includes changes in benefit levels or workfare eligibility.

(4) Upon notification by the operating agency that a participant has failed to comply with the workfare requirement without good cause, the State agency shall make a final determination as to whether or not such failure occurred and whether there was good cause for any such failure. If the State agency determines that the participant did not have good cause for noncompliance, a sanction shall be processed as provided in paragraph (f)(6) of this section. The State agency shall immediately inform the operating agency of the months during which the sanction shall apply.

(5) Recordkeeping Requirements. The State agency shall maintain in each household's casefile all workfare-related forms used by the State agency in forms used by the State agency in meeting the requirements of this section.

(6) Reporting Requirements. The State agency shall submit quarterly reports to FNS within 45 days of the end of each quarter identifying for that quarter for that State:

(i) The number of households referred to the operating agency as containing workfare-eligible recipients. A household shall be counted as referred each time it is referred to the operating agency.

(ii) The number of households assigned to jobs each month by the operating agency.

(iii) The number of individuals assigned to jobs each month by the operating agency.

(iv) The total number of hours worked by participants.

(v) The number of households against which sanctions were applied. A household being sanctioned over two quarters should only be reported as sanctioned for the earlier quarter.

(7) State Agency Monitoring. The State agency may, at its option, assume responsibility for monitoring all workfare programs in its State to assure that there is compliance with this section and with the plan submitted and approved by FNS. Should the State agency assume this responsibility, it would act as agent for FNS which is ultimately responsible for ensuring such compliance. Should the State agency determine that noncompliance exists, it may withhold funding until compliance is achieved or FNS directs otherwise. FNS shall be notified prior to the withholding of funds of the circumstances leading to that action. At a minimum, the State agency shall perform onsite reviews of each workfare program once within six months of the program's implementation and then in accordance with the Management Evaluation review schedule for that program area.

(e) *Household Responsibilities.* (1) Persons Subject to Workfare. Household members subject to the work registration requirements as provided in § 273.7(a) shall also be subject to the workfare requirements. In addition:

(i) Those recipients subject to and currently involved less than 20 hours a week in the work incentive program (WIN) under Title IV of the Social Security Act shall be subject to workfare. Those recipients involved more than 20 hours a week may be subject to workfare at the option of the political subdivision;

(ii) Those recipients exempt from work registration requirements due to the application for or receipt of unemployment compensation shall be subject to workfare requirements; and

(iii) Those recipients exempt from work registration requirements due to being a parent or other household member responsible for the care of a dependent child between the ages of six and twelve shall be subject to workfare requirements. If the child has its sixth birthday within a certification period, the individual responsible for the care of the child shall be subject to the workfare requirement as part of the next scheduled recertification process, unless the individual qualifies for another exemption.

(2) Household Obligation. The maximum total number of hours of work required of a household each month shall be determined by dividing the household's coupon allotment by the Federal or State minimum wage, whichever is

higher. Fractions of hours of obligation may be rounded down. The household's hours of obligation for any given month may not be carried over into another months except when the household wishes to end a disqualification due to noncompliance with workfare in accordance with paragraph (f)(8) of this section.

(f) *Other Program Requirements.* (1) Priority Placements. The State agency or political subdivision submitting the plan shall indicate in the plan how it will determine priority for placement at job sites when the number of eligible participants is greater than the number of available positions at job sites.

(2) Conditions of Employment. (i) Recipients may be required to work up to, but not to exceed, 30 hours per week. In addition, the total number of hours worked by a recipient under workfare together with any other hours worked in any other compensated capacity, including hours of participation in a WIN training program, by such recipient on a regular or predictable part-time basis, shall not exceed thirty hours a week. With the recipient's consent, the hours to be worked may be scheduled in such a manner that more than thirty hours are worked in one week, as long as the total for that month does not exceed the weekly average of thirty hours a week.

(ii) No participant shall be required to work more than eight hours on any given day, except that with the recipient's consent, more than eight hours may be scheduled.

(iii) No participant shall be required to accept an offer of workfare employment if such employment fails to meet the criteria established in § 273.7(i)(1)(iii) and (iv); and § 273.7(i)(2)(i), (ii), (iv), and (v).

(iv) If the workfare participant is unable to report for job scheduling, to appear for scheduled workfare employment, or to complete the entire workfare obligation due to compliance with Unemployment Insurance requirements, the additional work requirements established in § 273.7(e)(1), (2), (3), or (4), or the job search requirements established in § 273.7(f), such inability shall not be considered a refusal to accept workfare employment. If the workfare participant informs the operating agency of the time conflict, the operating agency shall, if possible, reschedule the missed activity. If such rescheduling cannot be completed before the end of the month, this shall not be cause for disqualification.

(v) The operating agency shall assure that all persons employed in workfare jobs receive job-related benefits at the same levels and to the same extent as similar non-workfare employees. These shall be benefits related to the actual work being performed, such as workers' compensation, and not to the employment by a particular agency, such as health benefits. Of those benefits required to be offered, any elective benefit which requires a cash contribution by the participant shall be optional at the discretion of the participant.

(vi) All persons employed in workfare jobs shall be assured by the operating agency of working conditions provided other employees similarly employed.

(vii) The provisions of section 2(a)(3) of the Service Contract Act of 1965 (Pub. L. 89-286), relating to health and safety conditions, shall apply to the workfare program.

(viii) Operating agencies shall not provide work to a workfare participant which has the effect of replacing or preventing the employment of an individual not participating in the workfare program. Vacancies, due to hiring freezes, terminations, or lay-offs, shall not be filled by a workfare participant unless it can be demonstrated that such vacancies are a result of insufficient funds to sustain former staff levels.

(ix) The workfare jobs shall in no way infringe upon the promotional opportunities which would otherwise be available to regular employees.

(x) Workfare jobs shall not be related in any way to political or partisan activities.

(xi) Workfare assignments should, to the greatest extent possible, take into consideration previous training, experience, and skills of a participant.

(xii) The cost of workers' compensation or comparable protection provided to workfare participants by the State agency, political subdivision, or operating agency is a matchable cost under paragraph (g) of this section. Whether or not this coverage is provided, in no case is the Federal government the employer in these workfare programs (unless a Federal agency is the job site), and therefore, USDA does not assume liability for any injury to or death of a workfare participant while on the job.

(xiii) The nondiscrimination requirement provided in § 272.7(a) shall apply to all agencies involved in the workfare program.

(3) Job Search Period. The operating agency may establish a job search period of up to 30 days following certification prior to making a workfare assignment during which the potential participant is expected to look for a job. This period may only be established at household certification, not at recertification. The potential participant would not be subject to any job search requirements beyond those required under § 273.7 during this time.

(4) Participant Reimbursement. Participants shall be reimbursed by the operating agency for transportation and other costs that are reasonably necessary and directly related to participation in the program. These other costs may include the cost of child care, or the cost of personal safety items or equipment required for performance of work if these items are also purchased by regular employees. These other costs shall not include the cost of meals away from home. No participant cost which has been reimbursed under a workfare program operated under Title IV of the Social Security Act or any other workfare program shall be reimbursed under the food stamp workfare program. Only reimbursement of participant costs which are up to but not in excess of $25 per month for any participant will be subject to Federal cost sharing as provided in paragraph (g)(i) of this section. Child care costs which are reimbursed may not be claimed as expenses and used in calculating the child care deduction for determining household benefits. Pursuant to paragraph (d)(1) of this section, a State agency may decide what its reimbursement policy shall be.

(5) Good Cause. For the purpose of this section, unless a State agency has determined its good cause policy pursuant to paragraph (d)(1) of this section, good cause shall include:

(i) Circumstances beyond a household member's control, such as, but not limited to: Illness; the illness or incapacitation of another household member requiring the presence of the workfare participant; a household emergency; or the lack of transportation when transportation is not provided by the operating agency;

(ii) Necessity for a parent or other responsible household member to care for a child between the age of six and 12 because adequate child care is not otherwise available;

(iii) Becoming exempt from the workfare eligibility requirements under the terms established in paragraph (e)(1) of this section.

(iv) Household moving out of the area of the workfare project.

(v) Instances where cost of transportation and other costs have exceeded $25 per month and are not being reimbursed by the operating agency.

(6) Failure to Comply. (i) Where a workfare participant has been determined by the State agency to have failed or refused without good cause to comply with the requirements of this section, the entire household shall be ineligible to participate. Such ineligibility shall continue until either the household meets the provisions of paragraph (f)(8) of this section or for 2 consecutive months, whichever occurs earlier. Within 10 days after receiving notification of the household's failure to comply with the requirements of this section, the State agency shall, if it determines that there is not good cause for the noncompliance, provide the household with a notice of adverse action, as specified in § 273.13. Such notification shall contain the proposed period of disqualification and shall specify the terms and conditions on which disqualification can be ended. Information shall also be included with the notification on the procedures and requirements contained in paragraph (f)(8) of this section. The disqualification period shall begin with the first month following the expiration of the adverse notice period, or following a fair hearing decision if a fair hearing is requested, in which the household would normally have received benefits. A household member shall not be required to perform work at a job site when the household is no longer receiving benefits unless the household has chosen to meet the conditions for ending disqualification specified in paragraph (f)(8) of this section. Until the disqualification is actually invoked, the household, if otherwise eligible, will continue to have a workfare obligation.

(ii) Should a household have two or more consecutive months of noncompliance while being certified for food stamps, the total corresponding months of sanction shall be a cumulative total; that is, two months of noncompliance shall entail a four-month sanction. Should a household which has been determined to be noncompliant without good cause split into more than one household, the sanction shall follow all the members of the household at the time of the noncompliance. None of those household members shall be eligible to participate in the

food stamp program for the length of the sanction beginning at the point when the sanction can be placed against any one of them

(iii) If a sanctioned household member joins another food stamp household, that household's eligibility and benefit level shall be determined as follows:

(A) Income, resources, and deductible expenses. The income and resources of the household member(s) disqualified for noncompliance with workfare shall count in their entirety, and the entire household's allowable earned income, standard, medical, dependent care, and excess shelter deductions shall apply to the remaining household members.

(B) Eligibility and benefit level. An individual disqualified for noncompliance with workfare shall not be included when determining the household's size for the purpose of assigning a benefit level to the household or of comparing the household's monthly income with income eligibility standards. The State agency shall ensure that no household's coupon allotment is increased as a result of the disqualification of one or more household member for workfare noncompliance.

(7) Fair Hearings. Each household has a right to a fair hearing to appeal a denial or termination of benefits due to a State agency determination of failure to comply with the requirements of this section. The fair hearing requirements provided in § 273.15 shall apply. If a fair hearing is scheduled, the operating agency shall be available to participate in the hearing. The State agency shall provide the operating agency sufficient advance notice to permit the attendance of an operating agency representative.

(8) Ending Disqualification. Following the end of the 2-month disqualification period for noncompliance with the workfare provisions of this section, a household may resume participation in the program if it applies again and is determined eligible. Eligibility may be re-established during a disqualification period and the household shall (if it makes application and is determined otherwise eligible) be permitted to resume participation if the member who failed to comply or any other workfare-eligible member of the household satisfies all outstanding workfare obligations. A workfare position shall be made available for a household which wishes to end disqualification in this manner.

(g) *Federal Financial Participation.* (1) Fifty percent of all administrative costs incurred by State agencies or political subdivisions in operating a workfare program shall be funded by the Federal government. Such costs include those related to recipient participation in workfare, up to $25 per month for any participant, as indicated in paragraph (f)(4) of this section. Such costs shall not include the costs of equipment, capital expenditures, tools or materials used in connection with the work performed by workfare participants, the costs of supervising workfare participants, the costs of reimbursing participants for meals away from home, or reimbursed expenses in excess of $25 per month for any participant.

(2) Funding Mechanism. The State agencies shall have responsibility for disbursing Federal funds used for the workfare program through the State agencies' Letters of Credit. The State agency shall also assure that records are being maintained which support the financial claims being made to FNS. This will be for all programs, regardless of who submits the plan. Mechanisms for funding local political subdivisions which have submitted plans must be established by the State agencies.

(3) Fiscal Recordkeeping and Reporting Requirements. Workfare-related costs shall be identified by the State agency on the Financial Status Report (Form SF-269) as a separate column. All financial records, supporting documents, statistical records, negotiated contracts, and all other records pertinent to workfare program funds shall be maintained in accordance with § 277.12.

(h) *Coordination With Other Workfare-type Programs.* State agencies and political subdivisions may operate workfare programs as provided in this section jointly with a workfare program operated under Title IV of the Social Security Act to the extent that provisions and protections of the statute are mainained or with other workfare programs operated by the subdivision to the extent that the provisions and protections of this section are maintained. Statutory provisions include, but are not limited to, eligible recipients as provided in paragraph (e)(1) of this section, maximum hours of work per week as provided in paragraph (f)(2)(i) of this section and the penalty for noncompliance as provided in paragraph (f)(6)(i) of this section. When a household receives benefits from more than one program with a workfare requirement and the household is determined to have a food stamp workfare obliga-

tion, the food stamp obligation may be combined with the obligation from the other program. However, this may be done only to the extent that eligible food stamp workfare participants are not required to work more than 30 hours a week in accordance with paragraph (f)(2)(i) of this section. Any intent to coordinate programs should be described in the plan. Waivers of provisions in this section, for the purpose of operating workfare jointly with local general assistance workfare-type programs may be requested and provided in accordance with § 272.3(c). Statutory provisions, shall not be waived.

(i) *Voluntary Workfare Program.*

State agencies and political subdivisions may operate workfare programs whereby participation by food stamp recipients is voluntary. In such a program, the penalty for failure to comply as provided in paragraph (f)(6) of this section shall not apply for noncompliance. The amounts of hours to be worked will be negotiated between the household and the operating agency, though not to exceed the limits provided under paragraph (f)(2) of this section. In addition, all protections provided under paragraph (f)(2) of this section shall continue to apply. Those State agencies and political subdivisions choosing to operate such a program shall indicate in their workfare plan how their staffing will adapt to anticipated and unanticipated levels of participation. The Department will not approve plans which do not show that the benefits of the workfare program, in terms of hours worked by participants and reduced food stamp allotments due to successful job attainment, are expected to exceed the costs of such a program. In addition, if the Department finds that an approved voluntary program does not meet this criteria, the Department reserves the right to withdraw approval.

(91 Stat. 958 (7 U.S.C. 20–11–2029), and Sec. 1, Pub. L., 97–98; 95 Stat. 1282 (7 U.S.C. 2012)) (Catalog of Federal Domestic Assistance Program No. 10,551. Food Stamps)

Dated: October 6, 1982.

John W. Bode
Deputy Assistant Secretary.

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Appendix III

Regional Offices—Food and Nutrition Service

Director, Family Nutritior Programs, Northeast Regional Office, USDA, Food and Nutrition Service, 33 North Avenue, Burlington, Massachusetts 01803 (617) 272–0267	Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont, New York.
Director, Family Nutrition Programs, Mid-Atlantic Regional Office, USDA, Food and Nutrition Service, 1 Vahlsing Center, Robbinsville, New Jersey 08691 (609) 259–0284	Delaware, District of Columbia, Maryland, New Jersey, Pennsylvania, Puerto Rico, Virginia, Virgin Islands, West Virginia.
Director, Family Nutrition Programs, Southeast Regional Office, USDA, Food and Nutrition Service, 1100 Spring Street, N.W., Room 200, Atlanta, Georgia 30367 (404) 881–4911	Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee.
Director, Family Nutrition Programs, Midwest Regional Office, USDA, Food and Nutrition Service, 50 East Washington, Chicago, Illinois 60602 (312) 353–6673	Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin.
Director, Family Nutrition Programs, Mountain Plains Regional Office, USDA, Food and Nutrition Service, 2420 West 26th Avenue, Room 430–D, Denver, Colorado 80211 (303) 837–5071	Colorado, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah, Wyoming.
Director, Family Nutrition Programs, Southwest Regional Office, USDA, Food and Nutrition Service, 1100 Commerce Street, Room 5–C–30, Dallas, Texas 75242 (214) 767–0214	Arkansas, Louisiana, New Mexico, Oklahoma, Texas.
Director, Family Nutrition Programs, Western Regional Office, USDA, Food and Nutrition Service, 550 Kearny Street, Room 400, San Francisco, California 94108 (415) 556–4956	Alaska, American Samoa, Arizona, California, Guam, Hawaii, Idaho, Nevada, Oregon, Trust Territory, Washington.

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